



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
 :
- v. - :
 :
MARK CLARKE, :
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Defendant. :
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ORDER

16 Cr. 212 (LAK)

WHEREAS, the defendant commenced a five-year term of supervised release on August 17, 2018;

WHEREAS, the defendant is alleged to have violated the terms of his supervised release on multiple occasions in 2019, 2020, and 2021;

WHEREAS, the Court has reviewed the Psychological-Legal Report of Cheryl Paradis, Psy.D., dated October 5, 2021 (the "Report"), which concludes that "to a reasonable degree of psychological certainty, Mr. Clarke is currently suffering from a mental disease/defect which currently renders him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or assist in his defense," (Report at 2);

WHEREAS, the parties appeared before the Court on November 3, 2021 for a hearing pursuant to Title 18, United States Code, Sections 4241(c) and 4247(d), at which the parties declined to call witnesses and did not challenge the

conclusions of the Report; and

WHEREAS, based upon the Report, and based on the Court's observations of the defendant during the course of the proceedings related to the violations of supervised release, the Court finds by a preponderance of the evidence that the defendant is incompetent to proceed to an adjudication of the specified violations of supervised release, pursuant to Title 18, United States Code, Section 4241(d), because he presently lacks a rational understanding of the proceedings against him and the capacity to assist properly in his defense;

IT IS HEREBY ORDERED that the defendant shall forthwith be committed to the custody of the Attorney General, or his authorized representative, who shall hospitalize the defendant for restoration to competency in a "suitable facility," meaning "a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant." 18 U.S.C. § 4247(a)(2). The defendant shall continue to be hospitalized for treatment in such facility for a reasonable period, not to exceed four months, to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to understand the nature and consequences of the proceedings against him and to assist properly in his

defense;

IT IS FURTHER ORDERED that, should the responsible examining physician find at any time that the defendant has attained the capacity to permit criminal proceedings to go forward against him, the Bureau of Prisons shall notify the Court as soon as practicable;

IT IS FURTHER ORDERED that, as soon as practicable after the defendant's first 60 days at the suitable facility, the responsible examining physician shall submit an interim report to the Court regarding the defendant's mental and psychological condition;

IT IS FURTHER ORDERED that, as soon as practicable after the conclusion of the four-month period, the responsible examining physician shall submit a final report to the Court, as provided by Title 18, United States Code, Sections 4247(c)(1), (2), (3), and 4(a); and

IT IS FURTHER ORDERED that copies of all reports shall be provide to Assistant United States Attorneys Jessica Feinstein, Allison Nichols, Hagan Scotten, and Drew Skinner, One St. Andrew's Plaza, New York, NY 10007; and Camille Abate, Esq., 333 Park Avenue South, Suite 3A, New York, New York 10010.

Dated: New York, New York
November 5, 2021

SO ORDERED:


LEWIS A. KAPLAN
UNITED STATES DISTRICT JUDGE